IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA:

CWP.No.1130/2004.

Date of Decision :24.4.2007...

Karam Singh Jaryal. …Petitioner.

Versus:

Union of India and others. …Respondents.

Coram:

The Hon'ble Mr.Justice Sanjay Karol, Judge.

Whether approved for reporting?[1]

For the petitioner: Mr.C.B.Singh, Advocate.

For Respondents. Mr.Anup Rattan, Central Govt. Counsel.

Sanjay Karol, J (Oral).

The petitioner was enrolled in 12th Grenadiers of the Indian Army on 30th August, 1973 as a Sepoy. While serving, he suffered from an injury "Grenade Blast Injury" (both legs). He was discharged from the army on 31st August, 1988. Subsequently, he was re-employed with respondent No.4 in 1989 and he was deputed in Poonch Sector with 531 Palatoon of the DSC 18 wireless in the year 1992. He has been successfully serving respondent No.4 without any complaint of any nature.

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[1] **Whether reporters of Local Papers may be allowed to see the judgment?**

As is borne out from the record on 11th July,1991 petitioner was diagnosed for disability and categorized in category "EEE" permanent. A request was made by the petitioner bringing out the aforesaid fact of his ailment and for taking appropriate action including discharge from the service. A perusal of the said application clearly indicates that the petitioner has elaborated his ailment and as such in normal course he would have otherwise been discharged from service on medical ground. The discharge of the petitioner by the respondents ought to have been on medical grounds keeping in view the attending circumstances as also the reasons furnished by the petitioner to the authorities.

In this view of the matter, the petitioner is entitled for disability pension under the provisions of the "Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995. However a stand has been taken by the respondents that the petitioner's disability is less than 20% as has been assessed by the Medical Board. The report of the Medical Board is not on record nor has it been supplied to the present petitioner. Respondent No.4 is directed to supply a copy of the report of the Medical Board to the petitioner within a period of eight weeks from today to enable him to exhaust his remedies in accordance with law. Considering that the matter has been pending before this Court, the plea of limitation, if any, in pursuing his remedies in accordance with law would not come in the way of the petitioner.

In this view of the matter, the present writ petition is disposed of with no order as to costs.

(Sanjay Karol),
Judge.

April 24, 2007(R)